

Exhibit 1

EXAMINATION UNDER OATH

OF

DANIEL KESSLER

* * * * *

DATE TAKEN: MARCH 8, 2017

TIME: COMMENCED AT 12:47 P.M.
CONCLUDED AT 3:45 P.M.

PLACE: 103 SWEETWATER TRAIL
BUNNELL, FLORIDA

STENOGRAPHICALLY
REPORTED BY: BLYTHE RIGGS, RPR
COURT REPORTER AND NOTARY PUBLIC

* * * * *

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1 APPEARANCES:
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 6 954-689-3000
 7 Attorney for Seneca Insurance

8 THOMAS SCARR, ESQUIRE
 9 Jenkins Fenstermaker PLLC
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13 Attorney for Daniel Kessler

14 Also Present:

15 Gregory Crapanzano, Seneca Insurance

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14 STIPULATIONS

15 It is hereby agreed to and so stipulated by and
 16 between the parties hereto, through their respective
 17 counsel, that the reading and signing of the transcript
 18 are expressly reserved by the Deponent.

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1 PROCEEDINGS

2 THE REPORTER: Do you swear or affirm the
 3 testimony you are about to give will be the
 4 truth, the whole truth and nothing but the
 5 truth?

6 THE WITNESS: I do.

7 THEREUPON,

8 DANIEL KESSLER,

9 having been duly sworn, was examined and testified upon
 10 his oath as follows:

11 EXAMINATION

12 BY MR. PATAKY:

13 Q Mr. Kessler, my name is Morris Pataky. Thanks
 14 for inviting us into your home. I represent Seneca
 15 Specialty Insurance Company. I'm a partner with a law
 16 firm called Litchfield Cavo. Can you state your name
 17 for the record?

18 A Daniel Carlton Kessler.

19 Q Okay. Can you spell your last name, please?

20 A K-E-S-S-L-E-R.

21 Q Okay. Just to clarify, you understand that
 22 we're here to talk about Claim Number 15DDN161, which
 23 involved property that was leased to Bulk Liquid
 24 Transport in Ironton, Ohio?

25 A Is that 61 -- 61 with an A on the end?

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1 Q Sure.

2 A Okay.

3 Q Is that your understanding?

4 A Yes.

5 Q Have you ever given an examination under oath
 6 before?

7 A On an insurance claim, no.

8 Q Okay. Have you been deposed before?

9 A Yes.

10 Q Okay. So a lot of the same rules will apply
 11 to the last time you were deposed. You have to answer
 12 all the questions out loud with words so that we can
 13 understand, when we read back the transcript, what you
 14 were intending to mean.

15 A I understand.

16 Q If you don't understand something, a question
 17 that I ask, because I don't always ask the most artfully
 18 phrased questions, please let me know and I'll try to
 19 rephrase it for you. Is that all right?

20 A Okay.

21 Q And that's really it. The last thing I would
 22 say is please let me finish my question before you start
 23 answering, because it gets very challenging for the
 24 court reporter if she has to write down what we're both
 25 saying at the same time. Is that all right?

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1 A Yep.
 2 Q Okay. When you were deposed previously what
 3 was the content? Why were you deposed?
 4 A That would have been on a billing matter
 5 between a subcontractor.
 6 Q It was a commercial dispute?
 7 A Yes.
 8 Q Were you deposed in your capacity as a
 9 representative of Bulk Liquid Transport?
 10 A Yes.
 11 Q Do you remember the name -- was Bulk Liquid
 12 Transport a party in the lawsuit?
 13 A On that, no. It was actually -- it was
 14 between Diversified, Bulk Liquid Transport, and I can't
 15 remember -- it was Hot Shot Trucking and I can't
 16 remember the guy's name.
 17 MR. SCARR: The one that Gary handled?
 18 THE WITNESS: Yeah. I can't remember the
 19 guy's name.
 20 BY MR. PATAKY:
 21 Q Okay. But that was a commercial dispute about
 22 someone being paid for their services?
 23 A Correct.
 24 Q Okay. Do you remember when that was?
 25 A Later part of '14, first part of '15. I'll

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1 have to let you know I'm dyslexic and dates are very bad
 2 for me.
 3 Q That's okay. I just appreciate you doing the
 4 best that you can and, you know, trying to give as
 5 complete an answer as possible. You understand that
 6 today you're here in your capacity as a representative
 7 of Bulk Liquid Transport, is that right?
 8 A Correct.
 9 Q Are you the person with the most knowledge
 10 regarding damages stemming from the loss that occurred
 11 on April 8th, 2015?
 12 A Yes.
 13 Q What is your business address?
 14 A As of?
 15 Q Right now.
 16 A 103 Sweetwater Trail.
 17 Q Here in Bunnell, Florida?
 18 A Where we're at right now.
 19 Q Does Bulk Liquid Transport still have any
 20 interest in the building that was the subject of this
 21 loss at 2940 South Third Street in Ironton, Ohio?
 22 A I wouldn't really know how to answer that.
 23 MR. SCARR: You still have a purchase
 24 agreement.
 25 THE WITNESS: Yeah, but the purchase

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1 agreement was originally with me and Bulk
 2 Liquid Transport, but Bulk Liquid Transport is
 3 no longer an entity now.
 4 MR. PATAKY: Okay. I don't want to --
 5 THE WITNESS: I don't know how to answer
 6 that question.
 7 MR. PATAKY: Could we go off the record
 8 for a second?
 9 (Off the record discussion had.)
 10 BY MR. PATAKY:
 11 Q All right. So I understand Bulk Liquid
 12 Transport is no longer an entity that exists, is that
 13 right?
 14 A Correct.
 15 Q Okay. When did it cease to exist?
 16 A I would have to get that date for you. I
 17 don't know.
 18 Q Okay. Was it this year? Was it in 2017 that
 19 Bulk Liquid Transport LLC was dissolved?
 20 A I would say that it was 2016.
 21 Q 2016. Do you recall, would it be in the -- do
 22 you think it was in the first half or the second half of
 23 2016?
 24 A First half, I believe.
 25 Q Okay. At the time of the loss, assuming the

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1 loss is April 8th, 2015, at that time did Bulk Liquid
 2 Transport have an interest in the building at 2940 South
 3 Third Street in Ironton, Ohio?
 4 A Yes.
 5 Q Okay. What was the nature of that interest?
 6 A Well, it was my -- as the company, as itself
 7 as a company was the tenant of the building.
 8 Q Who did they lease the building from?
 9 A Would have been from myself.
 10 Q From you, Dan Kessler?
 11 A Yes.
 12 Q Okay. Did you own the building?
 13 A I was in a purchasing agreement being financed
 14 by the Lawrence County Economic Development Center with
 15 a balloon payment at the end of the term.
 16 Q Okay. So you didn't hold title to the
 17 property, is that what you said? That was true?
 18 A Yes.
 19 Q Okay. Lawrence -- the Lawrence County
 20 Economic Development Program, did they hold title?
 21 A They held the title to the program or to
 22 the -- to the building.
 23 Q When you made the -- well, for how long was
 24 the term of that agreement?
 25 A The original term, I believe, and I don't have